

## **PROGRESS REPORT NO. 4**

# **MICHIGAN COURT OF APPEALS DELAY REDUCTION PLAN**

April 10, 2003

### **Work Group Members:**

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### **Contributing Judges:**

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## I. EXECUTIVE SUMMARY

In March of 2002 the Michigan Court of Appeals adopted a long-range goal of disposing of 95% of all appeals filed with it within 18 months of filing, commencing with those cases filed on and after October 1, 2003. Since the Preliminary Report that signaled the inception of the Court's delay reduction plan, the Court has issued Progress Reports Nos. 1, 2, and 3. This Progress Report No. 4 sets out data covering the first quarter of 2003. The public can access each of the four reports on the Court's web site at <http://courtofappeals.mijud.net/>.

To meet the Court's long-range goal of disposing of 95% of all appeals within 18 months of filing, the Court adopted two objectives:

- *First*, the Court determined to reduce the time to process an opinion case from its 2001 level of 653 days to approximately 497 days. The Court designed a number of actions, to take effect over the summer and fall of 2002 through the commencement of FY 2004 on October 1, 2003, to meet this first objective.
- *Second*, the Court determined to further reduce the time to process an opinion case to approximately 300 days, commencing fully with cases filed on and after October 1, 2003. This, in essence, means that the Court must eliminate the component in processing time called the "Warehouse" by the time these new filings pass through Intake.

This Progress Report No. 4 documents the Court's progress in the first quarter of 2003 toward meeting its objectives. Summarizing the data:

- **Overall** In the first quarter of 2003, the Court made very significant progress in reducing the overall processing time for an opinion case. For cases disposed of by opinion in that quarter, the Court reduced its overall processing time to an average of 556 days. *This is a reduction of more than three months, without any additional resources at the Court.*
- **Judicial Chambers** In 2001, the average time an opinion case spent in the Judicial Chambers was 61 days. For cases disposed of by opinion in the first quarter of 2003, the Court reduced that time *by more than half*, to an average of 28 days. The Court's objective was to reduce the time an opinion case spends in the Judicial Chambers to 46 days by January, 2003; the Court has, therefore, *substantially* exceeded its objective with respect to the Judicial Chambers.
- **Warehouse** In 2001, the average time that an opinion case spent in the Warehouse was 271 days. For cases disposed of by opinion in the first quarter of 2003, principally by routing cases directly to the Judicial Chambers rather than through the Research Division, the Court reduced that time to an average of 234 days. The Court's objective was to reduce the time an opinion case spends in the Warehouse to 217 days commencing fully by October, 2003; *the Court is, therefore, within 17 days of achieving its objective six months ahead of schedule with respect to the Warehouse.* However, to eliminate the Warehouse entirely, the Court will need additional personnel in its Research Division.
- **Intake** In 2001, the average time that an opinion case spent in the Intake was 260 days. For cases disposed of by opinion in the first quarter of 2003, the average time was 239 days. However, many of the opinion cases disposed of reached, and passed through, the

Intake stage *before* the adoption of the Court's delay reduction plan. Thus, while the 21-day reduction of time in Intake is a positive development, it is not due to the Court's delay reduction efforts to date. The bulk of the reduction of time in Intake will come from the court rule amendments that the Court has submitted to the Supreme Court. These amendments will, if adopted, reduce the time in Intake to an average of 173 days for cases filed on and after October 1, 2003. The Supreme Court published the proposed rules for comment in Administrative Order 2002-34 on March 11, 2003. The comment period ends on June 1, 2003. See <http://courts.michigan.gov/supremecourt/resources/administrative/2002-34.pdf>.

Despite budget cuts in both FY 2002 and FY 2003, the Court here announces a *97-day reduction* in the average time that opinion cases spent on appeal in the first quarter of 2003 as compared to 2001. The Court has exceeded its objective for the Judicial Chambers and is within 17 days of its objective for the Warehouse, both substantially ahead of schedule. These are significant achievements, *accomplished without one dollar in additional resources*. These achievements again raise the question of what the Court could accomplish for the citizens of Michigan if it had sufficient resources to process cases through the Research Division so quickly that no case would sit in the Warehouse. As the Court works through the balance of 2003, it will continue to raise that question for the thoughtful consideration of every group that interrelates with it on the important work that the citizens of this state rightfully expect the Court to perform.

## **II. OVERVIEW**

### **A. Statement of the Problem**

In 2001, the Court disposed of approximately 7,600 cases. Of these, the Court disposed of 3,100 cases by opinion. On average, the Court disposed of these opinion cases within 653 days from the date of filing. The Judges of the Court unanimously determined that this figure was not within acceptable limits and adopted a comprehensive delay reduction plan at a meeting held on March 8, 2002. On August 15, 2002, the Court issued its first progress report covering the first six months of 2002. On November 20, 2002, the Court issued its second progress report covering the first nine months of 2002, with particular emphasis on the months of July, August, and September 2002. On February 24, 2003, the Court issued its third progress report covering all of 2002, with particular emphasis on the months of October, November, and December of 2002. This fourth progress report covers January, February, and March of 2003.

### **B. Goals and Objectives**

#### *1. Long-Range Goal*

On March 8, 2002, the Judges of the Court adopted an overall long-range goal and two shorter-term objectives designed to meet that goal. The long-range goal was to dispose of 95% of all the Court's cases within 18 months of filing, commencing with those cases filed on and after October 1, 2003.

#### *2. First Objective*

To achieve its long-range goal, the Court determined that it would first need to reduce the average time it takes to process an opinion case through the Court from its 2001 level of 653

days by 156 days, to approximately 497 days. To achieve this overall reduction, the Court took a three-pronged approach to reduce delay: *First*, the Court set very aggressive targets for disposing of cases once they reach the Judicial Chambers. *Second*, the Court, through a number of mechanisms, set equally aggressive targets for moving cases much more quickly out of the Warehouse, basically by moving these cases directly into the Judicial Chambers at a considerably accelerated pace. *Third*, the Court proposed a number of changes in the Court Rules, to become effective September 1, 2003 (for cases filed on or after that date), to shorten the time in Intake. The Court designed these actions to take effect over the summer and fall of 2002 through the commencement of FY 2004 on October 1, 2003.

### 3. *Second Objective*

Reducing the overall processing time for opinion cases from its 2001 level of 653 days to approximately 497 days will not, however, permit the Court to meet its long-range goal of disposing of 95% of all cases within 18 months of filing, commencing with those cases filed on and after October 1, 2003. To achieve this long-range goal, the Court must reduce its overall average processing time for opinion cases to approximately 300 days. The Court's second objective is therefore to eliminate the Warehouse. The basic deterrent here is the capacity of the Research Division. The current staffing levels of the Research Division mean that it cannot, by itself, appreciably reduce the wait in the Warehouse, whose very existence derives from the fact that the Research Division is inadequately staffed. Conversely, and simply put, if the Court were able to increase the number of attorneys in the Research Division, it would reduce the wait in the Warehouse.

Recognizing this fact, the Delay Reduction Work Group recommended that the Court seek funding in FY 2004 for an additional seven to ten attorneys in the Research Division. This would require an additional appropriation in FY 2004 of approximately \$470,000 to \$670,000. Were this appropriation to be available on October 1, 2003, commencing with cases filed after that date, by the end of FY 2004 there would be no Warehouse and the average time to decide an opinion case would be approximately 300 days. With the achievement of this second objective, the Court would be able to reach its long-term goal of disposing of 95% of all cases filed with the Court within 18 months of such filing.

### III. RESULTS THROUGH MARCH OF 2003 AS COMPARED TO FIRST OBJECTIVE

#### A. Processing Times

##### 1. *Overall*

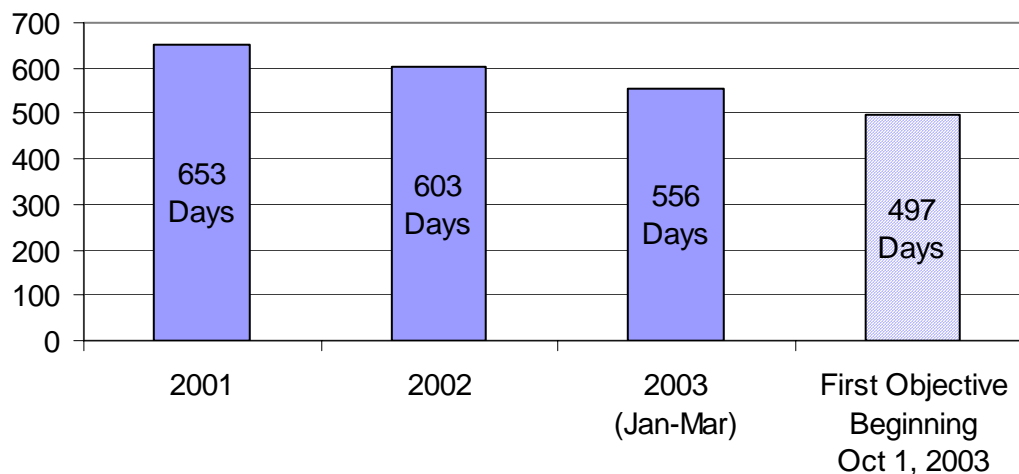
As Chart 1 shows, for those cases disposed of by opinion in 2001 it took 653 days to dispose of an opinion case. For those cases disposed of by opinion in 2002, this time was 603 days. For those cases disposed of by opinion in the first quarter of 2003, this time was 556 days. Graph 1 shows these reductions on a comparative basis and relates them to the Court's first objective.

**Chart 1**

	2001	2002	2003 Jan-Mar
Intake	260	240	239
Warehouse	271	261	234
Research	61	62	55
Judicial Chambers	61	40	28
Totals	653	603	556

**Graph 1**

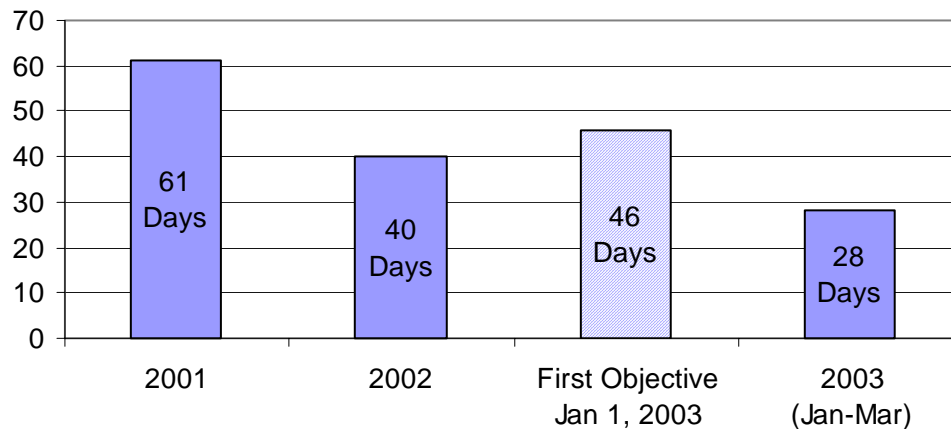
#### **Overall Time In Processing Compared To First Objective**



## 2. *Judicial Chambers*

As Chart 1 shows, in 2001 for those cases disposed of by opinion the time spent in the Judicial Chambers was 61 days. For those cases disposed of by opinion in 2002, this time was 40 days. For those cases disposed of by opinion in the first quarter of 2003, this time was 28 days. Graph 2 shows these reductions on a comparative basis and relates them to the Court's first objective. As the graph shows, the Court has actually exceeded its objective by 18 days.

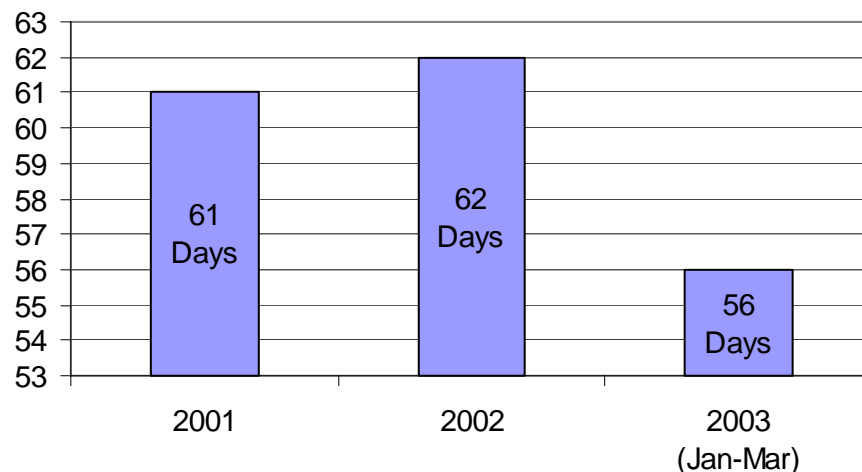
**Graph 2**  
**Processing Time In Judicial Chambers Compared To First Objective**



## 3. *Research*

As Chart 1 shows, in 2001 for those cases disposed of by opinion the time spent in the Research Division was 61 days. For those cases disposed of by opinion in 2002, this time was 62 days. For those cases disposed of by opinion in the first quarter of 2003, this time was 56 days. Graph 3 shows these increases and reductions on a comparative basis.

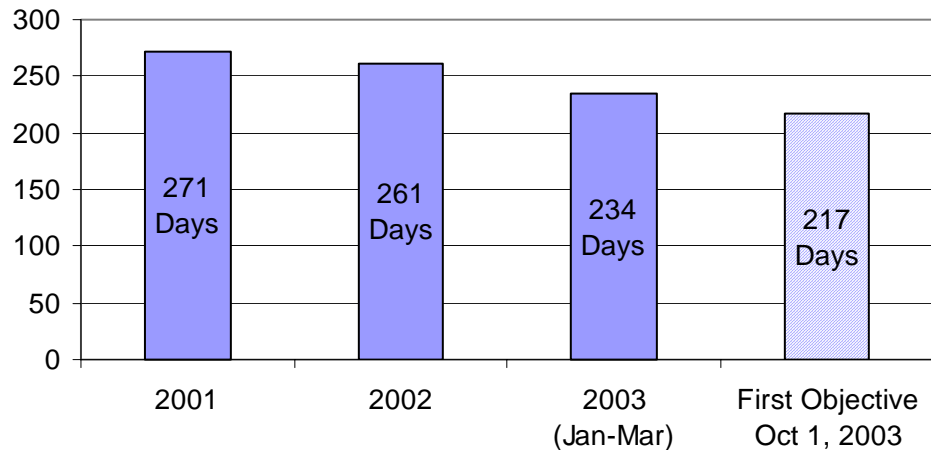
**Graph 3**  
**Processing Time In Research Division**



#### 4. *Warehouse*

As Chart 1 shows, in 2001 for those cases disposed of by opinion the time spent in the Warehouse was 271 days. For those cases disposed of by opinion in 2002, this time was 261 days. For those cases disposed of by opinion in the first quarter of 2003, this time was 234 days. Graph 4 shows these increases and reductions on a comparative basis and relates them to the Court's first objective.

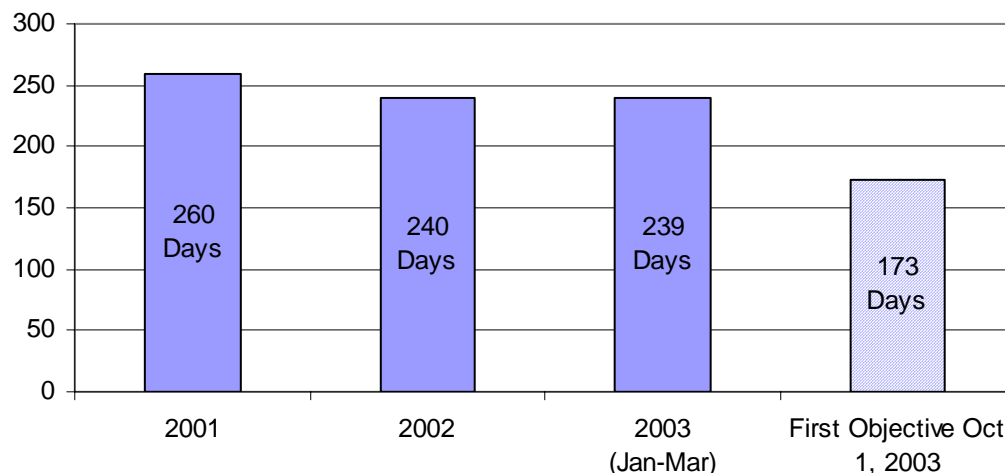
**Graph 4**  
**Processing Time In The Warehouse Compared To First Objective**



#### 5. *Intake*

As Chart 1 shows, in 2001 for those cases disposed of by opinion the time spent in Intake was 260 days. For those cases disposed of by opinion in 2002, this time was 240 days. For those cases disposed of by opinion in the first quarter of 2003, this time was 239 days. Graph 5 shows these reductions on a comparative basis and relates them to the Court's first objective.

**Graph 5**  
**Processing Time In Intake Compared To First Objective**



## **B. Case Differentiation**

Chart 2 shows the overall situation for cases that the Court disposed of by opinion in 2001, arrayed according to major case types.

**CHART 2**  
**2001**

	<b>Overall Average</b>	<b>Regular/ Complex</b>	<b>Summary</b>	<b>Non- Expedited</b>	<b>Expedited</b>	<b>Custody/TPR</b>
<b>Intake</b>	260	271	229	280	192	187
<b>Warehouse</b>	271	290	214	331	60	56
<b>Research</b>	61	61	62	63	56	52
<b>Judicial Chambers</b>	61	72	27	66	43	30
<b>Total</b>	653	694	532	740	351	325

Chart 3 shows the overall situation for cases that the Court disposed of by opinion in 2002, arrayed according to major case types.

**CHART 3**  
**2002**

	<b>Overall Average</b>	<b>Regular/ Complex</b>	<b>Summary</b>	<b>Non- Expedited</b>	<b>Expedited</b>	<b>Custody/TPR</b>
<b>Intake</b>	240	254	205	255	178	178
<b>Warehouse</b>	261	290	189	312	58	56
<b>Research</b>	62	59	69	61	66	67
<b>Judicial Chambers</b>	40	49	19	44	26	20
<b>Total</b>	603	652	482	672	328	321



Chart 4 shows the overall situation for cases that the Court disposed of by opinion from January to March of 2003, arrayed according to major case types.

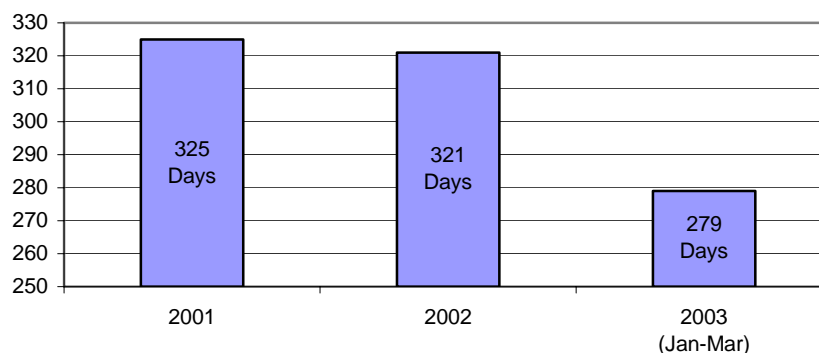
**CHART 4**  
**Jan-Mar 2003**

	<b>Overall Average</b>	<b>Regular/ Complex</b>	<b>Summary</b>	<b>Non- Expedited</b>	<b>Expedited</b>	<b>Custody/TPR</b>
<b>Intake</b>	239	246	222	254	168	171
<b>Warehouse</b>	234	268	151	281	25	25
<b>Research</b>	55	55	56	53	69	70
<b>Judicial Chambers</b>	28	34	15	31	15	13
<b>Total</b>	556	603	444	619	277	279

### **C. Dependency Appeals**

The Court has also directed special attention to dependency appeals. Those are appeals arising from trial court orders terminating parental rights due to neglect or abuse and appeals arising from trial court orders or opinions involving custody of minor children in domestic relations cases. In 2001, it took 325 days, on average, to dispose of such cases by opinion. The Court's delay reduction plan will reduce this time, on average, by 12 days. The Court has made further recommendations that will reduce this time by an additional 21 days. Beyond these quantifiable proposals, the Court's recommendations include an expansion of its contract attorney program by adding an additional six to eight contract attorneys, at an estimated cost of \$35,000 to \$50,000 in FY 2004. This action, alone, will reduce the time it takes to dispose of dependency appeals by 21 days. Graph 6 shows the situation with respect to dependency appeals for the first quarter of 2003. Note that, as Chart 4 shows, in the first quarter of 2003 the Court disposed of dependency appeals in 279 days on average. Such appeals spent 171 days in Intake while spending 108 days in *all* of the other stages combined, including only 13 days in the Judicial Chambers.

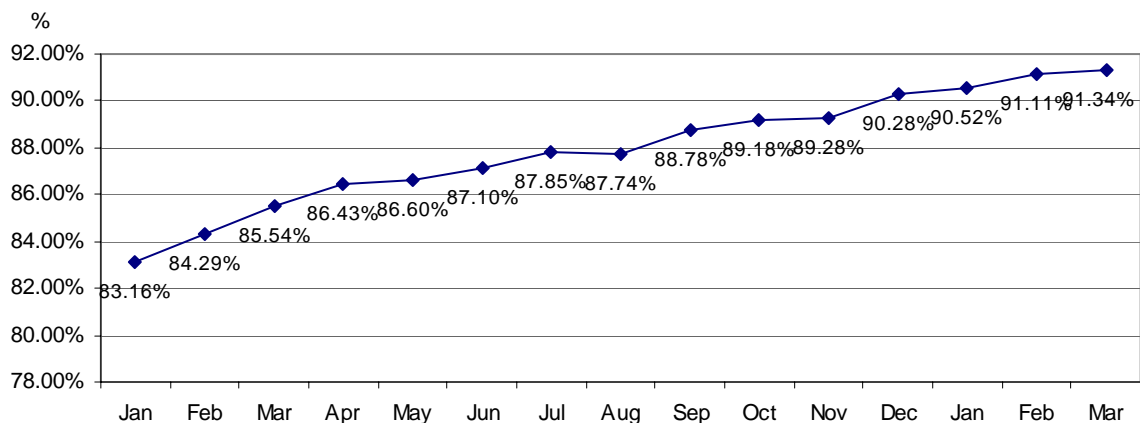
**Graph 6**  
**Dependency Appeals**



## D. Case Age Percentages

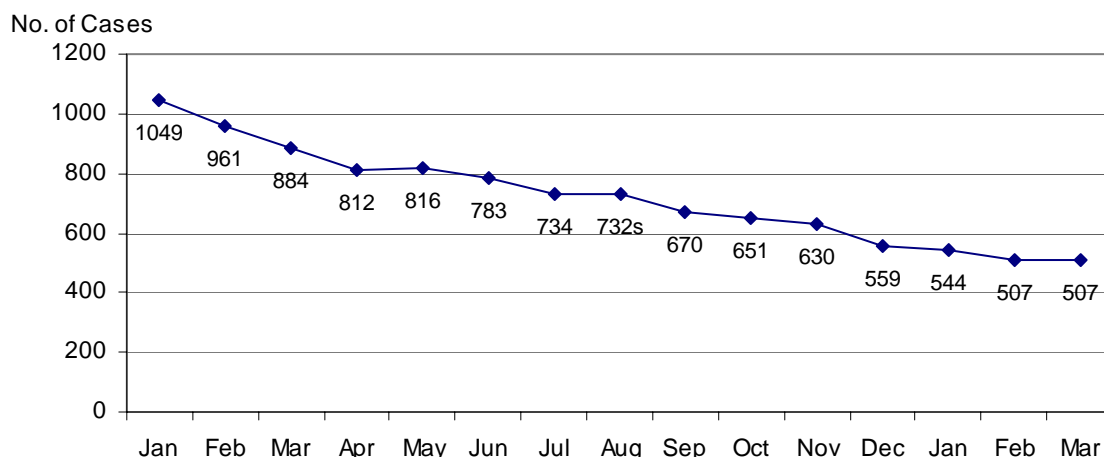
There is another way of looking at the Court's delay reduction progress over the past 12 months and that is by an examination of case age percentages. The Court defines a case age percentage as the percentage of pending cases that are 18 months of age or less from the date of filing. (For example, a case that is filed on January 1, 2002, will be 18 months old on July 1, 2003). At the close of each month, the Court calculates and reports the age of each pending case. Case age percentages are not a good indicator of delay reduction case processing rates for opinion cases; indeed, in 2001 the Court disposed of only 24.8% of its opinion cases within 18 months of filing while the monthly case age percentages for all cases were in the 80% range. Case age percentages do, however, give a rough estimate of the *trend* in dispositions. This trend continues to be very good, as Graph 7 indicates.

**Graph 7**  
**Case Age Percentages – 2002/2003**  
(Percentage of Cases That Are No More Than 18 Months Old)



Conversely, the *number* of cases that were 18 months of age or more continues to decrease materially, as Graph 8 shows.

**Graph 8**  
**Case Age Numbers – 2002/2003**  
(Number of Cases That Are More Than 18 Months Old)



## IV. CONCLUSION

On March 8, 2002, the Judges of the Court of Appeals adopted the ambitious goal of disposing of 95% of all appeals filed with the Court within 18 months of filing. The Court's delay reduction plan, with the exception of changes to the court rules that would reduce the time a case spends in Intake, commenced on an overall basis in July of 2002. During the first quarter of 2003:

- The Court reduced the overall time it takes to dispose of an opinion case from the 2001 level of 653 days to 556 days. The Court's first objective is to reduce the time it takes to dispose of an opinion case to 497 days commencing fully on October 1, 2003. Thus, the Court will need to shorten the time it takes to dispose of an opinion case by another 59 days in order to meet its first objective.
- The Court reduced the time a case spends in the Judicial Chambers from the 2001 level of 61 days to 28 days. The Court therefore achieved — indeed, it exceeded — its objective of reducing the time in the Judicial Chambers to 46 days by January 1, 2003. Thus, the Court has met, and exceeded, its objective with respect to the Judicial Chambers.
- The Court reduced the time a case waits in the Warehouse from the 2001 level of 271 days to 234 days. The Court's objective is to reduce the wait in the Warehouse to 217 days by October 1, 2003. Thus, the Court will need to reduce the time a case waits in the Warehouse by another 17 days in order to meet its first objective.
- The time a case spends in Intake has been reduced from the 2001 level of 260 days to 239 days. The Court's objective is to reduce the time a case spends in Intake to 173 days for those cases filed on and after September 1, 2003. Thus, through the adoption of changes in the court rules, this time must be further reduced by another 66 days in order to begin meeting that objective for cases filed on and after September 1, 2003.
- The Court recognized in March of 2002 that, given existing budget constraints, it was not realistic to expect that it could add new attorneys to its Research Division in either FY 2002 or FY 2003. Indeed, the Court has actually experienced significant budget *reductions* during both of these fiscal years. Nevertheless, in order to meet its overall goal of disposing of 95% of all appeals within 18 months of filing, the Court will, commencing on October 1, 2003, need to further reduce the time it takes to process an opinion case to approximately 300 days. There is only one way to meet the Court's second objective and that is by adding attorneys to the Research Division and thereby drastically reducing or eliminating the Warehouse.
- The Court has reduced the overall time it takes to process dependency appeals from the 2001 level of 325 days to 279 days.

Chart 5 summarizes the further progress that will be needed to meet the Court's first objective of reducing the time it takes to dispose of an opinion case from the 2001 level of 653 days to 497 days commencing fully on October 1, 2003.

### **CHART 5** **October 2003 Objective**

	<b>2001</b>	<b>2002</b>	<b>2003 First Quarter</b>	<b>Improvement To Date</b>	<b>First Objective</b>	<b>Improvement Needed To Meet First Objective</b>
<b>Intake</b>	260	240	239	21	173	66
<b>Warehouse</b>	271	261	234	37	217	17
<b>Research</b>	61	62	55	6	61	(6)
<b>Judicial Chambers</b>	61	40	28	33	46	(18)
<b>Total</b>	653	603	556	97	497	59

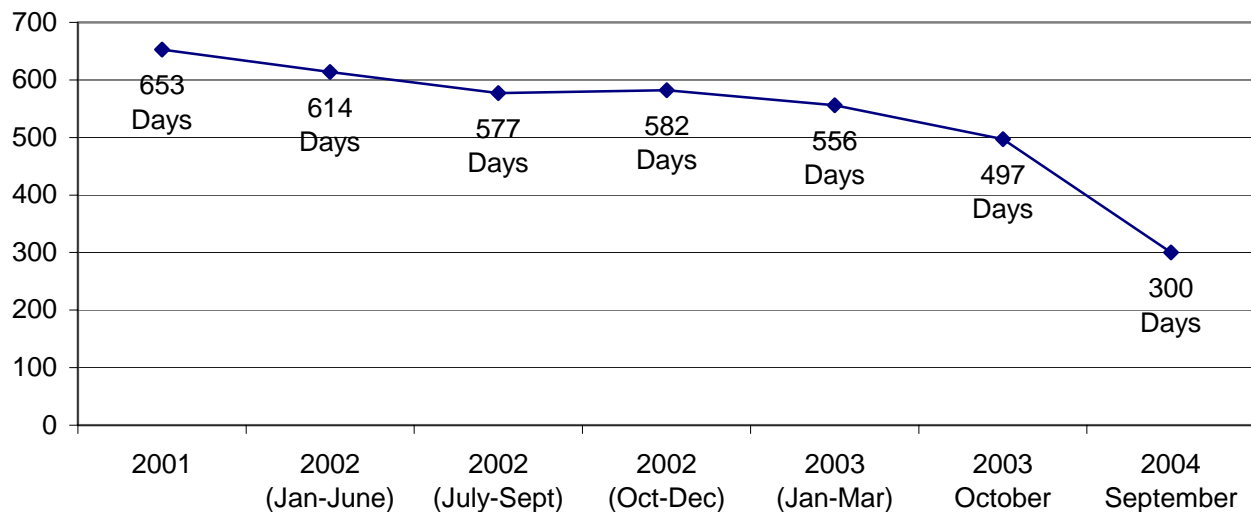
Chart 6 summarizes the additional progress that will be needed to meet the Court's second objective of reducing the time it takes to dispose of an opinion case from the 2001 level of 653 days to approximately 300 days by September of 2004.

### **CHART 6** **September 2004 Objective**

	<b>2001</b>	<b>2002</b>	<b>2003 First Quarter</b>	<b>Improvement To Date</b>	<b>Second Objective</b>	<b>Improvement Needed To Meet Second Objective</b>
<b>Intake</b>	260	240	239	21	173	66
<b>Warehouse</b>	271	261	234	37	0	234
<b>Research</b>	61	62	55	6	61	(6)
<b>Judicial Chambers</b>	61	40	28	33	46	(18)
<b>Total</b>	653	603	556	97	280	276

Graph 12 illustrates the situation from a different perspective, showing the Court's starting point in 2001, the progress the Court made from January through June of 2002, the progress from July through September of 2002, the progress from October to December of 2002, the progress from January to March of 2003, the first objective for October of 2003, and the second objective for September of 2004.

**Graph 9**  
**Progress Toward Objectives**



As mentioned in previous progress reports, the Court has established a solid base upon which it can build over the next year so that it will be in a position to achieve its long-range goal of deciding 95% of all appeals within 18 months of filing. The Court's core mission is to resolve the cases pending before it with due deliberation *and* due speed. Existing Court policies and procedures are focused on ensuring the opportunity for due deliberation. The Court's delay reduction plan will ensure due speed through the significant reduction of delay on appeal. It is part of the Court's core mission and is, and shall remain, a first priority of the Court.